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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,700	03/04/2002	Mikko Makipaa	4208-4076	2805
27123	7590	08/11/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			LAstra, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,700

Applicant(s)

MAKIPAA, MIKKO

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-27 have been examined. Application 10/086,700 (METHOD AND SYSTEM FOR PROVIDING CONTENT ITEMS TO USERS) has a filing date 03/04/2002

Response to Amendment

2. In response to Non Final Rejection filed 02/27/2006, the Applicant filed an Amendment on 05/24/2006, which amended claims 1, 11, 22, 24-27.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halbert (US 6,101,484) in view of Carver (US 2004/0010592).

As per claims 1, 11 and 21, Halbert teaches:

A method of providing a content item to a plurality of user devices, comprising:

defining a collective earning threshold (see column 7, lines 50-62 "minimum offer threshold" and col 8, lines 35-60; "acceptable gross margin");

receiving a total collective payment from the plurality of user devices, wherein the total collective payment includes a plurality of individual user payments that are each

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contributed by a respective one of the plurality of user devices (see column 3, lines 3-25);

evaluating the received total collective payment with respect to the collective earning threshold (see col 7, line 50 – col 8, line 60; col 9, lines 35-45; the collective earning threshold would be the acceptable gross margin to accept offers);

Halbert fails to teach transmitting the content item at a premium quality level when the *received* total collective payment is greater than or equal to the collective earning threshold and transmitting the content item at an impaired quality level when the *received* total collective payment is less than the collective earning threshold. However, Carver teaches a system where more than one user contribute to the cost of downloading data and where the quality of said downloading is directly proportional to the amount of said contribution (see Carver paragraphs 85, 155, 252, 277, 299, 307-310, 319). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download said data at different service levels (*i.e.* normal service, low jitter service, low latency service)¹, as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission for a lower fee.

As per claims 2 and 12, Halbert and Carver teach:

¹ Carver paragraph 277

The method of claim 1, wherein the step of defining a collective earning threshold comprises selecting a threshold value from a time-varying threshold function (see Halbert column 7, line 55 - column 8, line 15).

As per claims 3 and 13, Halbert and Carver teach:

The method of claim 1, further comprising the step of awarding a prize to one or more users according to a prize criterion. Carver teaches a system that permits that one or more user contribute towards the cost of downloading data and where each user can contribute a different percentage to said cost of said downloading (see Carver paragraph 308). It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Halbert would give awards to buyers that contribute the most to a group purchase in order that said buyers have an incentive to share the bigger part in the cost of downloading data to a group of buyers.

As per claims 4 and 14, Halbert and Carver teach:

The method of claim 3, wherein the awarding step comprises awarding a prize to the user that has contributed the largest of the individual user payments. The same argument made in claim 3 regarding this limitation is also made in claim 4.

As per claims 5 and 15, Halbert and Carver teach:

The method of claim 1, teach wherein the step of transmitting the content item at a downgraded quality comprises reducing the resolution of images included in the content item. The same argument made in claim 1 regarding the quality of transmission is also made in claim 5.

As per claims 6 and 16, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises reducing the size of one or more images included in the content item. The same argument made in claim 1 regarding this missing limitation is also made in claim 6.

As per claims 7 and 17, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises increasing the distortion of audio signals included in the content item. The same argument regarding the quality of transmission made in claim 1 is also made in claim 7.

As per claims 8 and 18, Halbert and Carver teach:

The method of claim 1, wherein the step of transmitting the content item at an impaired quality comprises interrupting transmission of the content item. Carver teaches interrupting transmission of content if users offers do not meet a threshold amount (see paragraph 155). Therefore, the same argument made in claim 1 regarding this missing limitation is also made in claim 8.

As per claims 9 and 19, Halbert and Carver teach:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total collective payment is less than the collective earning threshold (see Halbert column 8, lines 60-67).

As per claims 10 and 20, Halbert and Carver teach:

The method of claim 1, further comprising the step of transmitting a request for additional individual user payments to the plurality of user devices when the total collective payment is within a predetermined range of the collective earning threshold (see Halbert column 8, lines 62-67).

As per claims 22, 24, 25 and 26 Halbert teaches:

A method of providing a content item to a plurality of users, comprising:

defining a collective earning threshold (see column 7, lines 50-62 “minimum offer threshold”);

receiving a total collective payment from the plurality of users, wherein the total collective payment includes a plurality of individual user payments that are each contributed by a respective one of the plurality of users (see column 3, lines 3-25);

evaluating the received total collective payment with respect to the collective earning threshold (see col 7, line 50 – col 8, line 60; col 9, lines 35-45); and

Halbert fails to teach scheduling the content item for transmission when the *received* total collective payment is greater than or equal to the collective earning threshold. However, Carver teaches scheduling the transmission of data when users collective contribution is greater than a threshold (see paragraph 315). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download said data at different service levels (*i.e.*

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normal service, low jitter service, low latency service)², as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission for a lower fee.

As per claim 23, Halbert teaches:

The method of claim 22, further comprising the step of identifying a stale payment when the total collective payment is less than the collective earning threshold and providing a content item reselection opportunity to the user that placed the stale payment (see column 7, lines 55-65).

As per claim 27, Halbert and Carver teach:

A wireless communications device for receiving a content item from a content provider, the wireless communications device comprising:

means for selecting a content item from a list of content item offerings provided by the content provider (see column 9, lines 10-20);

means for sending an individual user payment for the selected content item to the content provider (see column 9, lines 10-20);

means for receiving a revenue indicator from the content provider, the revenue indicator indicating a comparison between a total collective payment and a collective earning threshold (see column 8, lines 5-60), wherein the total collective payment includes the individual user payment and one or more payments from other communication devices (see column 8, lines 5-60); and

² Carver paragraph 277

Halbert fails to teach means for receiving the selected content item from the content provider in a manner that is determined by the comparison between the total collective payment *received by the content provider* and the collective earning threshold. However, Carver teaches a system where more than one user contribute to the cost of downloading data and where the quality of said downloading is directly proportional to the amount of said contribution (see Carver paragraphs 85, 155, 252, 277, 299, 307-310, 319). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that buyers that want to receive high quality services would use the Halbert's group purchasing power method to contribute towards the cost of downloading data in order to download data at different service levels (*i.e.* normal service, low jitter service, low latency service)³, as taught by Carver. The group buying taught by Halbert and Carver would allow users to receive a higher quality transmission for a lower fee. Halbert does not teach wireless communication devices. However, Official Notice is taken that it is old and well known in the computer art to wirelessly communicate via the Internet or TV. Wireless transmission mode would not patentably distinguish the claimed invention from the prior art.

Response to Arguments

4. Applicant's arguments, filed 05/23/2006, with respect to the rejection(s) of claim(s) 1-27 under Halbert have been fully considered and are persuasive. Therefore,

³ Carver paragraph 277

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the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Halbert and Carver.

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
August 1, 2006


RETTA YEHDEGA
PRIMARY EXAMINER